REMARKS

Claim Rejections - 35 USC § 102 and 35 U.S.C. § 103(a)

Claims 7-11 are rejected in the Final Office Action under 35 U.S.C. 102(b) as being anticipated by Jacobsen et al., U.S. Patent No. 5,141,493 ("Jacobsen"). Claims 1-2 and 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jacobsen in view of Karoor et al., U.S. Patent Application Publication No. US 2003/0105424.

These are the same rejections that were made in the Office Action dated August 22, 2008.

Jacobsen is identified in each of these rejections as disclosing a peritoneal dialysis system (Figures 1A-1B) comprising each of the elements of the peritoneal dialyzer of the present invention including a means (196, 160, 28) capable of measuring a conductive osmotic agent concentration in peritoneal dialysate.

In the response filed February 23, 2009, to the Action dated August 22, 2008, applicants argued:

> "Means (196, 160, 28) of Jacobsen do not measure the osmotic agent concentration in the peritoneal dialysate taken out from a patient. In Jacobsen, 28 (in Figure 1) and 196 (in Figure 2) are pressure sensors, and 160 (in Figure 2) is a conductivity probe. "Means" 28 and 196

detect fluid pressure and 160 detects the electrolyte concentration in the solution. Therefore, the parameters detected or measured by the components in Jacobsen identified by the Office are completely different from those of the present invention."

In response to this argument the Office, in the Final Action, responds:

"Jacobsen et al. discloses a device objective of being able to independently and separately control the concentration of the electrolyte and osmotic concentrations (col 2, ln 40-45). Jacobsen et al. further discloses that the pressure sensors (28, 160) can be used to determine to [sic] a transmembrane pressure which is indicative of an osmotic concentration (col 5, ln 1-10). Further Jacobsen et al. discloses that the additional sensors (load sensor 180) can be used to control and determine the concentration of the solution agents (col 7, ln 25-40)."

Applicants respectfully submit that Jacobsen does not support a case of anticipation of claims 1-7 under 35 U.S.C. § 102 and, alone or in combination with Karoor, does not support a case of prima facie obviousness under 35 U.S.C. § 103(a) of claims 1-2 and

5-6.

First, regarding claims 7-11, claim 7 recites, as a step of the method of peritoneal dialysis defined therein, "taking peritoneal dialysate out from a patient and measuring an osmotic agent concentration (c1) in the peritoneal dialysate." On the other hand, none of the means identified by the Office, i.e., 196, 160, 28, are used to measure an osmotic agent concentration (c1) in the peritoneal dialysate taken out from a patient. Jacobsen, therefore, does not anticipate the method recited in claims 7-11.

Second, regarding claims 1-2 and 5-6, Jacobsen discloses in the paragraph bridging Cols. 4 and 5 that the pressure sensor 28 is used to measure the transmembrane pressure for the purpose of discharging excess water drawn from the patient 16 into the primary circuit. Jacobsen does not disclose and the Office has not explained how the "transmembrane pressure is indicative of an osmotic agent concentration."

Moreover, even if it is assumed that Jacobsen discloses means "capable" of measuring an osmotic agent concentration, Jacobsen does not disclose that the means is provided in the peritoneal dialysate circuit as required by claims 1, 2 and 5-6. In Jacobsen, the means which control the osmotic agent concentration are provided in the secondary dialysate circuit. This is evidenced by

the description of the sensors in Col. 7 and by the drawings which show the electrolyte concentrate container 156 provided in the secondary dialysate circuit. In the present invention, osmotic agent is not discharged. (See paragraph [0046] of the publication of the present application, US 2005/0234392 ("[a]lso, in the present invention, since the osmotic agent in the peritoneal dialysate is prevented from being discharged out of the peritoneal dialysate by dehydrating the peritoneal dialysate via a dialyzer, additional replenishment of expensive osmotic agent is not necessary and there is no fear of increasing the treatment cost.")).

Withdrawal of the 35 U.S.C. § 102 and 35 U.S.C. § 103(a) rejections of the claims of the present application and an allowance of the application are respectfully requested.

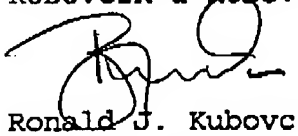
The foregoing is believed to be a complete and proper response to the Office Action dated June 5, 2009, and is believed to place this application in condition for allowance. If, however, minor issues remain that can be resolved by means of a telephone interview, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number indicated below.

In the event that this paper is not considered to be timely filed, applicants hereby petition for an appropriate extension of

time. The fee for any such extension may be charged to our Deposit Account No. 111833.

In the event any additional fees are required, please also charge our Deposit Account No. 111833.

Respectfully submitted,
KUBOVCIK & KUBOVCIK



Ronald J. Kubovcik
Reg. No. 25,401

Crystal Gateway 3
Suite 1105
1215 South Clark Street
Arlington, VA 22202
Tel: (703) 412-9494
Fax: (703) 412-9345
RJK/ff